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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,694	02/07/2006	Hendrik Wijbenga	NL 031010	3939

24737 7590 11/03/2006

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EXAMINER

LOVELL, LEAH S

ART UNIT PAPER NUMBER

2875

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/567,694

Applicant(s)

WIJBENGA ET AL.

Examiner

Leah S. Lovell

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "36" and "39" have both been used to designate "base."
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "37" and "40" have both been used to designate "top."
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 23.
4. The drawings are objected to because in figure 4 reference numeral 11 is shown; however, the Examiner is unclear how, based on the view of the figure, it designates the plane of symmetry.
5. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The abstract of the disclosure is objected to because it should be resubmitted on its own sheet of paper without the rest of the WO information. Correction is required. See MPEP § 608.01(b).

7. The disclosure is objected to because headings are required between each of the sections of the specification. The Examiner has included the following guidelines to illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use:

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

8. The disclosure is objected to because of the following informalities:
- Reference numeral 23 in figure 4 is not in the specification
9. Appropriate correction is required.
10. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Entrop et al. (US 5,564,820) in view of Shadwick (US 4,462,068).

In regard to claim 1, Entrop discloses a luminaire suitable for under canopy lighting, comprising:

a concave reflector [2] with a plane of symmetry [figure 1 is cut along the line of symmetry] and defining a cavity [figure 1];

a light emission window [7] tangent to the reflector, transverse to the plane of symmetry, and having first edges along the plane of symmetry;

holding means [6] for accommodating an electric lamp in the cavity of the reflector, with an elongate light source [10] of said lamp transverse to the plane of symmetry;

a set of strips [8] adjacent the first edges, extending substantially from the light emission window into the cavity, said strips being light-diffusing;

a light-refracting element along at least one of the first walls, the element having a base facing the light emission window and a top remote from the light emission window, able to cause light emanate within an angle of up to 5° to the light emission window.

However, Entrop does not disclose a light-transmitting hood. Shadwick discloses a light-transmitting hood [60, 70], said hood having first walls [70] extending substantially away from the first edges [figure 5]; and a light-refracting element [10] along at least one of the first walls, the element having a base [the prisms have a base, or ending point] facing the light emission window and a top [the prisms have a top, located near face 60] remote from the light emission window. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the hood as taught by Shadwick to the luminaire as taught by Entrop. One would have been motivated to do so because the hood would further evenly distribute the light emitted from the light source allowing for a wider coverage area. While, the sets of strips being transverse to a direction of traffic is not directly disclosed, it would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange the set of strips so that they are transverse to the direction of traffic. It has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. Since the combination of Entrop and Shadwick disclose all claimed parts; they inherently

disclose the method for lighting the area under a canopy. No patentable weight has been given to the phrase “able to cause light emanate within an angle of up to 5° to the light emission window” because any light is able to emanate within a certain range.

Regarding claim 2, Shadwick discloses the refracting element is present inside the hood [figure 11].

In regard to claim 3, Shadwick discloses the refracting element is integral with the at least one first wall [figure 11].

In regard to claim 4, Shadwick discloses the refracting element is composed of a number of refracting sub-elements, each having a base facing the light emission window and a top remote from the light emission window [figure 11; the prisms have a base, or ending point; the prisms have a top, located near face 60].

Regarding claim 5, Shadwick and Entrop disclose the refracting element is at one side of the plane of symmetry, and the bases are each situated in a plane intersecting a strip of the set of strips which is closest to the refractive element and is present at another side of the plane of symmetry [figure 11 of Shadwick].

In regard to claim 6, Shadwick does not disclose that the at least one first wall, at a surface thereof facing away from the refracting element, including an angle with the light emission window that lies in a range of 66° and 74°. However, claim 6 is a *prima facie* obvious without a showing that the claimed ranges achieve unexpected results relative to the prior art range. *In re Woodruff*, 16 USPQ2d 1935, 1937 (Fed. Cir. 1990). See also *In re Huang*, 40 USPQ2d 1685, 1688 (Fed. Cir. 1996) (claimed ranges of a result effective variable, which do not overlap the prior art ranges, are unpatentable

unless they produce a new and unexpected result which is different in kind and not merely in degree from the results of the prior art). See also *In re Boesch*, 205 USPQ 215 (CCPA) (discovery of optimum value of result effective variable in known process is ordinarily within skill of art) and *In re Aller*, 105 USPQ 233 (CCPA 1955) (selection of optimum ranges within prior art in general conditions is obvious). In this case, there exists no evidence of record that the angle between the first wall and light emission window provides unexpected results in the light distribution produced. One of ordinary skill in the art would be motivated to optimize the angle between the first wall and light emitting window to provide for the largest lighted area.

Regarding claim 7, Shadwick discloses a similar refracting element is present along the other one of the first walls [figure 5].

In regard to claim 8, Entrop discloses the reflector is accommodated in a housing [figure 1]. When the hood as taught by Shadwick is added to the luminaire as disclosed by Entrop, the hood sealing off the housing [inherently a lens/hood seals the housing].

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- McCarthy (US 5,416,683)
- Bowker (US 6,053,625)
- Minissi et al. (US 6,250,780)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leah S. Lovell whose telephone number is (571) 272-

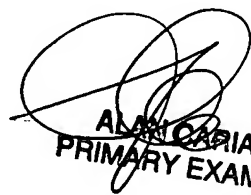
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2719. The examiner can normally be reached on Monday through Friday 7:45 a.m. until 4:15 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on (571) 272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Leah Lovell
Examiner
25 October 2006


ALAN CAPIASO
PRIMARY EXAMINER